

JUN 26 2006

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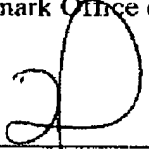
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Omar A. Nassif
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June 26, 2006

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JUN 26 2006

ATTY DOCKET: T8466399US

PATENT APPLICATION**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

| | | |
|-----------------------------|---|------------------------------|
| In re Application of: |) | |
| | : | Examiner: Phillip A. Johnson |
| MICHAEL SASGES |) | |
| | : | Group Art Unit: 2881 |
| Application No.: 09/846,682 |) | |
| | : | Confirmation No.: 2919 |
| Filed: May 2, 2001 |) | |
| | : | |
| For: OPTICAL SENSING AND |) | |
| CONTROL OF ULTRAVIOLET | : | June 26, 2006 |
| FLUID TREATMENT DYNAMICS |) | |

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RESPONSE TO OFFICE COMMUNICATION UNDER 37 C.F.R. § 41.202(a)

Sir:

Responsive to the Office communication dated May 26, 2006, Applicant states as follows.

I. Identification of Interfering Claims and Counts under 37 C.F.R.**§41.202(a)(2)**

In the May 26, 2006 Office communication, it was asserted that it was necessary for Applicant to: (1) identify all claims the Applicant believes interfere, and/or (2) propose one or more counts, and/or (3) show how the claims correspond to one or more counts.

In response, Applicant notes that claims 1-21 of the present application are identical to claims 1-21 of U.S. Patent No. 6,057,917 (the '917 patent). Accordingly, Applicant respectfully asserts that pending claims 1-21 of the present application interfere with claims 1-21 of the '917 patent.

Applicant also proposes the following count, which corresponds exactly to the independent claim 7 of the '917 patent and independent claim 7 of the present application. Applicant asserts that claims 1-6 and 8-21 of the present application and claims 1-6 and 8-21 of the '917 patent correspond to the proposed count.

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PROPOSED COUNT

An ultraviolet light fluid sterilization apparatus comprising:

a fluid chamber:

at least one ultraviolet light source configured to emit ultraviolet light into said fluid chamber; and

at least one ultraviolet light sensor comprising a silicon carbide photodiode.

II. Claim Charts under 37 C.F.R. § 41.202(a)(3)

In the May 26, 2006 Office communication, it was also asserted that it was necessary for Applicant to provide a claim chart comparing at least one claim of each party corresponding to the count. 37 C.F.R. §41.202(a)(3) provides that for each count, Applicant must provide a claim chart comparing at least one claim of each party corresponding to the count and show why the claims interfere within the meaning of §42.203(a). 37 C.F.R. §42.203, in turn, indicates that “[a]n interference exists if the subject matter of a claim of one party would, if prior art, have anticipated or rendered obvious the subject matter of a claim of the opposing party and vice versa.”

Pursuant to 37 C.F.R. §41.202(a)(3), Applicant provides the following claim chart, which indicates that the subject matter of claim 7 of the ‘682 application would, if prior art, have anticipated or rendered obvious the subject matter of claim 7 of the ‘917 patent, and vice versa. Accordingly, Applicant submits that at least these claims constitute interfering subject matter within the meaning of 37 C.F.R. § 41.203(a).

**CLAIM CHART COMPARING CLAIM 7 OF THE ‘917 PATENT
WITH CLAIM 7 OF THE ‘682 APPLICATION**

| ‘917 PATENT CLAIM 7 | ‘682 APPLICATION CLAIM 7 |
|---|---|
| 7. An ultraviolet light fluid sterilization apparatus comprising: | 7. An ultraviolet light fluid sterilization apparatus comprising: |
| a fluid chamber: | a fluid chamber: |
| at least one ultraviolet light source configured to emit ultraviolet light into said fluid chamber; and | at least one ultraviolet light source configured to emit ultraviolet light into said fluid chamber; and |
| at least one ultraviolet light sensor comprising a silicon carbide photodiode. | at least one ultraviolet light sensor comprising a silicon carbide photodiode. |

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III. Detailed Explanation Regarding Priority under 37 C.F.R. §41.202(a)(4)

In the Office communication, it was also asserted that it was necessary for Applicant to provide a detailed explanation as to why Applicant will prevail on priority.

In response, Applicant respectfully asserts that Michael Sasges is the sole or at least joint inventor of the subject matter of the proposed count. As evidenced by the previously filed Declaration of Inventor Under 37 C.F.R. §1.131, a copy of which is enclosed herewith as Exhibit A and which is incorporated herein by reference, Mr. Sasges conceived of the subject matter of the proposed count (i.e., claim 7 of the '682 application) prior to the February 26, 1999 effective filing date of the '917 patent.

Applicant's conception of the subject matter of at least the proposed count prior to February 26, 1999 is corroborated, *inter alia*, by the Declaration of Fraser McClellan, attached hereto as Exhibit B, which is incorporated herein by reference.

Applicant's conception of the subject matter in at least the proposed count prior to February 26, 1999 is further corroborated, *inter alia*, by the article: "Website Hit Results in EMS Win," *Quality*, Vol. 4, No. 4, at p. 15 (Sept. 1999), attached hereto as Exhibit C, which is incorporated herein by reference. The article reflects that Trojan Technologies Inc. engineers (i.e., Michael Sasges) contacted GE Reuter-Stokes Inc. ("GE") engineers with the idea of employing a silicon carbide "UV flame sensor" in a fluid sterilization apparatus (the subject matter of the proposed count).

Furthermore, as reflected by Exhibit A, Mr. Sasges acted to diligently reduce to practice the subject matter of the invention recited in the proposed count from the date of conception thereof up to at least February 26, 1999, in NAFTA member country Canada. Moreover, from a date prior to February 26, 1999, Mr. Sasges diligently continued to work to refine the subject matter of the invention recited in at least the proposed count. The invention of at least the proposed count was reduced to practice, e.g., constructively reduced to practice, at least as of the filing of the present application on May 2, 2001.

Applicant also respectfully asserts that the listed inventors on the face of the '917 patent, Carl C. Petersen, Frederick L. Glesius, Gregory A. Schneider and Leo R. Lombardo derived the subject matter of at least the proposed count from Michael Sasges. As indicated above, Mr. Sasges conceived of the subject matter of the proposed count (i.e., claim 7 of the '682 application) prior to the February 26, 1999 effective filing date

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of the '917 patent. Further, Exhibit C reflects that after conceiving of the subject matter in the proposed count, Mr. Sasges (who is an employee of Trojan Technologies Inc.) communicated his conception of the subject matter of at least the proposed count to several GE engineers.

IV. Claim Chart Showing Support for Constructive Reduction to Practice under 37 C.F.R. §41.202(a)(5)

In the Office communication, it was also asserted that it was necessary for Applicant to provide a claim chart showing where the disclosure provides a constructive reduction to practice within the scope of the interfering subject matter for each constructive reduction to practice for which the applicant wishes to be accorded benefit.

In response, Applicant notes that the present application was originally filed with claims that were identical to the claims contained in the '917 patent. Applicant respectfully submits that the presence of these claims in the originally filed application constitutes a *prima facie* showing that support exists in the present application to accord Applicant with a constructive reduction to practice for at least the subject matter of the proposed count (which is identical to claim 7 of the present application). Nevertheless, pursuant to 37 C.F.R. §41.202(a)(6), Applicant provides the following claim chart showing that the present application constructively reduced to practice the subject matter of the proposed count.

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**CLAIM CHART SHOWING CONSTRUCTIVE REDUCTION
TO PRACTICE FOR THE PROPOSED COUNT IN THE '682 APPLICATION**

| PROPOSED COUNT | SUPPORT IN '682 APPLICATION |
|---|--|
| An ultraviolet light fluid sterilization apparatus comprising: | <p>"An ultraviolet light fluid sterilizing apparatus comprising" (Claim 7.)</p> <p>"FIG. 1 is a schematic view of an ultraviolet light fluid sterilization apparatus 10 in accordance with an embodiment of the present invention." (§ [0012].)</p> |
| a fluid chamber; | <p>"a fluid chamber" (Claim 7.)</p> <p>"The ultraviolet light fluid sterilization apparatus includes a fluid chamber" (§ [0006].)</p> |
| at least one ultraviolet light source configured to emit ultraviolet light into said fluid chamber; and | <p>"at least one ultraviolet light source configured to emit ultraviolet light into said fluid chamber; and" (Claim 7.)</p> <p>"The ultraviolet light fluid sterilization apparatus includes . . . at least one ultraviolet light source configured to emit ultraviolet light into the fluid chamber." (§ [0006].)</p> |
| at least one ultraviolet light sensor comprising a silicon carbide photodiode. | <p>"at least one ultraviolet light sensor comprising a silicon carbide photodiode." (Claim 7.)</p> <p>"The ultraviolet light fluid sterilization apparatus includes . . . at least one ultraviolet light sensor that includes a silicon carbide photodiode." (§ [0006].)</p> |

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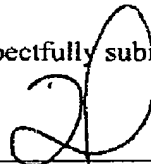
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V. CONCLUSION

For the forgoing reasons, Applicant submits that Michael Sasges is the true, original and sole or at least joint inventor of the subject matter of at least the proposed count, and Applicant respectfully asserts that the present application is in condition to immediately commence interference proceedings with the '971 patent.

Applicant's undersigned may be reached by telephone at (416) 862-5775. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



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